

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JUAN JOSE SANTILLAN, *individually and on
behalf of others similarly situated,*

Plaintiff,
-against-

WALTER HENAO and CUSTOM STAINLESS
STEEL CORP. doing business as CENTER'S
RESTAURANT EQUIPMENT,

Defendants.

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MEMORANDUM AND ORDER
Case No. 10-CV-3128 (FB) (MDG)

Appearances:

For the Plaintiff:

MICHAEL A. FAILLACE, ESQ.
Michael Faillace & Associates, P.C.
110 East 59th Street
32nd Floor
New York, NY 10022

BLOCK, Senior District Judge:

On September 12, 2011, Magistrate Judge Go issued a Report and Recommendation ("R&R") recommending that the Court award default judgment against defendants in the total amount of \$60,193.42, consisting of \$44,242.94 in damages for unpaid overtime wages, spread of hours pay and liquidated damages under the FLSA and Labor Law, \$7,734 in prejudgment interest up to September 30, 2011 and at a daily rate of \$4.81 per day until entry of judgment, \$7,770 in attorneys' fees and \$440 in costs. *See R&R* at 27. The R&R also stated that defendants' failure to object by September 29, 2011 would preclude appellate review. *See id.* All parties received notice of the R&R, electronically or by regular mail, on the date it was filed. *See id.*

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

FREDERIC BLOCK
Senior United States District Judge

Brooklyn, NY
September 30, 2011